1949.

File No. Children II /49 (R)

Legal Department

B. BRANCH

Subject:—

Rules under the Bombay Children Act 1948.

File No. Children II /49 (R)

Gen. 194 e.

587-B

Legal Department.

The Chief Inspector of certified schools is not correct in thinking that no rule is necessary on the lines of existing rule 12. Section 65 of the Bombay Children Act, 1948, contemplates the making of rules for two purposes. Subsection (1) of section 65 provides that where a boy or a girl apparently under the age of 16 years having been arrested is not released under section 64 or otherwise, the officer in charge of the police station or section shall cause him or her to be detained in the prescribed manner, unitl he or she can be brought before a Jubenile Court or a court empowered under section 8 to exercise the powers of a Juvenile Court. This provision contemplates the making of a rule for prescribing the manner in which boy or a girl can be detained by an officer in charge of the police station or section. Su-section (2) of section 65 provides that a court on remanding or committing for trial a child who is not released on bail, shall order him to be detained in the prescribed manner. This provision contemplates the making of a rule for prescribing the manner in which a court shall order a child to be detained. Under section 65, therefore, two sets of rules are necessary, one under sub-secton (1) and the other under sub-section (2). Such rules may be made on the lines of existing rules 11 and 12. Existing rule 12 makes a distinctions between children charged with culpable homicide or any other offence punishable with death or transportation and children charged with other offence of a less serious nature. Although the Bombay Children Act doesn not prohibit the detention of a child charged with culpable homicide or any other offence punishable with death or transportation, in a certified school or a place of safety, it is but appropriate that such child

should not be detained in such school or place. Necessary rules have been inserted in the draft rules as rule 9 and 10 for H.D's consideration.

2. Section 12 of the Act provides that a Juvenile Court shall hold its sittings at such place, on such date and in such manner as may be prescribed. Strictly speaking a rule under this section will have to specify the place, the date and the manner at, on or in which a Juvenile Court should hold its sittings but in view of the difficulty pointed out by the Chief Inspector of certified schools in para 3 of his memo at page 103 ante a rule on the lines of existing rule 14 has been included in the draft rules as desired by the H.D. (See sub-rule) (3) of draft rule 14). That rule provides for the place and the date on which the Juvenile Court shall hold its sittings. As regards the manner in which the Juvenile courts should hold its sittings, it would be for the H.D . to indicate the same if any rule for that purpose is considered necessary.

Sd/- J.N.Dhurandhar
O.C. 20/1

Additional Secretary to Government.

U.R. to H.D. No. 1003 dated the 21st January 1950

Mjr/20/7

4 Cs.

Legal Department.

A revised draft of the rules is sent herewith. As the rules require previous publication, a draft notification is also framed.

Rule 6:- The draft rule 6 as framed by the Department refers to ' a member of the inspecting staff'. This expression is vagu e. Section 37 of the Act contemplates the appointments of the Chief Inspector, Inspectors and Assistant Inspectors and accordingly the revised rule in terms refers to them.

Rule16:- This rule corresponds to rule 14 of the H.D. draft rules, caluse (c) of rule 14 provides for a recognisance from a youthful offender on his release on probation of good conduct under section 72(ii). Section 72(ii) contemplates a bond from the parents, relative etc. and not from the chld or youthful offender. Home Department rule requiring the court to take recognisance for a youthful offender would be inconsistent with section 72(ii) and has therefore been omitted along with draft form C.

The manner of detaining children in the circumstances mentioned in section 65 of the Act has to be prescribed under that section. The Children Rules of 1936 contain rule 11 and 12 which provide for the manner in this behalf. The Home Department should consider whether provisions on the lines of rules 11 and 12 of the rules of 1936 are not necessary. Similarly the place and time for the sitttings of a Juvenile Court habe to be prescribed under section 12.

The Home Department draft Rules do not howevr contain any provision in this behalf. The Department should also consider the advisability of including such provisions in the proposed Rules.

Sd/- J.R.Dhurandhar
25/11

o.c.

Additional Secretary to Government.

U.R. to H.D. No. 13689, dated the 29th November 1949.

Mjr/20/7

4 Cs.